

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Nathan Day

**Date application filed with the Town Clerk:** May 14, 2008

**Nature of request:** A Special Permit to convert a single family to a two-family residence, under Section 3.3241 of the Zoning Bylaw

**Address:** 175 College Street (Map 14B, Parcel 167, R-G Zoning District)

**Legal notice:** Published May 28 and June 4, 2008 in the Daily Hampshire Gazette and sent to abutters on May 27, 2008

**Board members:** Thomas Simpson, Albert Woodhull and Eric Beal

**Submissions:** The petitioner submitted with the application a Management Plan, a site plan and a set of building plans for the new section of the house.

The zoning assistant submitted a memo concerning the application dated June 6, 2008.

For the continued hearing on July 14, 2008, the petitioner submitted floor plans for the old plus new sections of the house, a revised management plan and a site plan with dimensions for parking.

**Site Visit:** June 11, 2008

The Board met with the building contractor Alan Bonneau and observed the following:

- The location of the house on a major road close to Amherst College;
- The older section of the house along the roadway and the added section in the back;
- The two-car garage, with ample room in back for additional parking and a turnaround area;
- The 14-foot existing driveway, which widens to 20 feet next to the garage and house addition;
- The property to the south, which is conservation woods, stream and trails owned by Amherst College;
- The wetlands delineation at the southern boundary of the property;
- The similar houses along the street, many of them multi-family.

**Public Hearing:** June 12, 2008

Contractor Alan Bonneau spoke to the petition at the hearing. Applicant Nathan Day also was present. Mr. Bonneau gave the following information:

- The new section to the house was originally planned to be an addition to the single family house, then the applicant decided to convert the new section to a second unit;
- The proposed new apartment is 760 square feet;
- The entry way (192 sq. ft.) is shared and the deck area (1375 sq. ft.) is available to the front unit as well, so the proposed apartment does not qualify as a supplemental apartment, but rather a second

- dwelling unit;
- The addition has been inspected and has all the fire and code protections necessary so that the new section can be converted to a second unit;
- The Conservation Commission reviewed the construction and reviewed the proposed parking area, and approved both;
- There are rentals on both sides of the applicant's house, and Amherst College land is behind;
- The house will be owner-occupied; the applicant plans to live in the newer addition in the back of the house;
- There are two bedrooms in the original house; it is a half-cape, so that standing room on the second floor is limited;
- There is exterior lighting for all entrances and a motion detector spotlight for the garage;
- The driveway extension will be constructed with TRG, with a gravel underbase;
- There were few changes made to the original house – they include separate smoke detectors, fire walls, an additional entrance that is shared with the second unit, and an extended deck on the easterly side of the house.

Mr. Simpson commented on the site plan. He said that there may be adequate parking, but that the plan is not to scale. Also, the parking must be eight (8) feet away from the building. The applicant said that he would modify the plan.

Mr. Woodhull said that he was confused by the building plans. No kitchen is shown for the second unit. Mr. Bonneau said that the plans were originally made for the extension of the single-family house. He showed the Board where the second kitchen would be on the plans.

Mr. Simpson asked Building Inspector David Waskiewicz whether the two means of egress for the proposed apartment are too close together, since they are on the same wall and are approximately 12 feet apart. Mr. Waskiewicz said that it was unusual, but passable.

The Board noted that the lot size and frontage are non-conforming, but that the Board can authorize a one time modification of the dimensional requirements of the Zoning Bylaw Table 3 for the conversion to a two-family dwelling.

The applicant stated that there are four single family houses and four two-family houses in the immediate neighborhood. Across the street and on either side of his house are two-family dwellings.

Mr. Simpson asked the other Board members if there were any problems with the concept of approving a Special Permit for a two-family house. There were none.

Mr. Simpson recommended that the hearing be continued so that better plans could be submitted. Specifically, the Board requested:

1. As-built plans for the addition;
2. Scaled floor plans for the original house;
3. A better Management Plan, outlining where the refuse/recycling is stored, who is responsible for the maintenance, etc;
4. A site plan, drawn to scale with dimensions of the setbacks, driveway, parking places and turnaround area.

Mr. Simpson made a motion to continue the hearing to July 14, 2008 at 7:30 p.m. Mr. Beal seconded the

motion, and the vote was unanimous to continue the hearing to July 14, 2008 at 7:30 p.m.

**Continued Public Hearing July 14, 2008**

Mr. Simpson reviewed the four things needed by the Board before a decision could be made. He noted the submissions subsequent to the initial hearing covered the Board requests. Specifically, the Board concluded:

1. The “as-built” plans for the addition were now accurate;
2. Scaled floor plans for the original house were submitted, showing two bedrooms in the original house and three means of egress;
3. The Management Plan, though minimal, covers who is responsible for the maintenance, etc;
4. A site plan, drawn to scale with dimensions of the setbacks, driveway, parking places and turnaround area was found to be much improved and satisfactory to the Board.

Ms. Weeks, Building Commissioner, stated that the addition originally had two means of egress close together, but a third egress has been added to access the garage, and she found this addition to be a big improvement.

Mr. Woodhull made a motion to close the hearing. Mr. Beal seconded the motion and the vote was unanimous to close the hearing.

**Public Meeting:**

Mr. Simpson asked the other Board members if there was any objection to the proposal. There were none.

The Board discussed the non-conformity of property in that the lot area and frontage do not meet the standard dimensional requirements of Table 3 of the Zoning Bylaw. That is, lot size should be 14,500 square feet for a two-family dwelling in a General Residence district, but the size is only 12, 249 square feet. Also minimum lot frontage should be 100 feet in an R-G district, and the frontage 82.5 feet.

Section 3.3241.7 allows for a one-time modification of the dimensional requirements as long as the proposal is not “substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.” The Board agreed that the visual character of the house would not change with the addition to the back to the building, and that another dwelling unit would not be detrimental to the neighborhood with other two-family dwellings.

Mr. Simpson made a motion to waive the lot size and frontage requirements of Table 3 of the Zoning Bylaw. Mr. Beal seconded the motion, and the vote was unanimous to waive the lot size and frontage required for a two-family dwelling in an R-G district.

The Board spent the remainder of the public meeting crafting conditions of the Special Permit if the application were to be approved.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other multi-family dwellings in the immediate neighborhood.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the addition is in the back of the house, and the owner will continue to reside on the premises.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or

pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the driveway widens substantially to the back of the property and there is amply turnaround space.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because there are two or three means of egress for each unit, two parking places for each unit, and an on-site owner.

10.386 – The proposal ensures that it is in conformance with the Parking regulations of the town because four parking places are provided, two for each unit as required by Section 7.00 of the Zoning Bylaw.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to Town water/sewer, and the Management Plan describes the refuse/recyclable disposal process.

10.391 – The proposal protects unique or important historic features because the original 19<sup>th</sup> century factory house is preserved, with the addition not altering the looks of the original house.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because there is screening on both sides of the property and the Amherst College wood behind.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because external lighting will be downcast, as required by the Special Permit.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because the addition is small and does not detract from the original house.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. It also provides an additional housing unit close to the center of Town.

#### **Public Meeting – Zoning Board Decision**

Mr. Beal made a motion to APPROVE the permit, with conditions. Mr. Simpson seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to Nathan Day to convert a single family to a two-family residence under Section 3.3241 of the Zoning Bylaw on the premises at 175 College Street (Map 14B, Parcel 167, R-G Zoning District), with conditions.

\_\_\_\_\_  
THOMAS SIMPSON

\_\_\_\_\_  
ALBERT WOODHULL

\_\_\_\_\_  
ERIC BEAL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2008 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2008.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2008  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2008,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Nathan Day to convert a single family to a two-family residence under Section 3.3241 of the Zoning Bylaw on the premises at 175 College Street (Map 14B, Parcel 167, R-G Zoning District), subject to the following conditions:

1. The addition and parking shall be built according to plans approved by the Board at a public meeting on July 14, 2008.
2. All additional lighting shall be downcast.
3. One of the two units shall be owner-occupied.
4. The property shall be managed as described in the Management Plan approved by the Board at a public meeting on July 14, 2008.
5. No more than four (4) vehicles shall be parked on the premises on a permanent basis.
6. No more than four (4) unrelated persons may reside in either dwelling unit.
7. The rooms of each dwelling unit shall be used as labeled on the plans approved by the Board on July 14, 2008.
8. There shall be no more than two bedrooms per dwelling unit.
9. Evidence that the rental unit has been registered with the Board of Health, under the rental property registration regulations shall be submitted to the Board of Appeals and the Building Commissioner before a Certificate of Occupancy is obtained.

\_\_\_\_\_  
THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

\_\_\_\_\_  
DATE